

APPEAL NO. 032110
FILED OCTOBER 1, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on July 14, 2003. The hearing officer determined that the appellant (self-insured herein) did not waive its right to contest compensability of the claimed injury; that the respondent (claimant herein) suffered a compensable left ankle injury on _____; and that the claimant had disability beginning on November 23 continuing through December 17, 2002, and beginning on December 22, 2002, and continuing through the date of the CCH. The self-insured files a request for review, contending that the claimant did not prove her injury was compensable because she did not show a causal connection between her work and her injury, which it contends was due to an idiopathic fall. The self-insured argues that absent a compensable injury the claimant could not have disability. The claimant responds that the hearing officer found that the claimant was injured when she slipped and fell at work and the self-insured seeks on appeal to relitigate its theory of the mechanism of the injury, which was rejected by the hearing officer.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

There was conflicting evidence presented on the disputed issues of injury and disability. The issues of injury and disability are questions of fact. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given to the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). An appeals-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Insurance Company of Pittsburgh, Pennsylvania v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

Applying this standard, we find no basis to reverse the hearing officer's resolution of the injury or disability issues.

Nor do we find legal error. While the self-insured points to cases involving claims of injury due to walking and idiopathic falls, it fails to establish any relevance of these cases to a situation where a claimant slips and falls at work. Indeed, acceptance of the self-insured's underlying argument that any injury that could happen elsewhere is not compensable because it happened at work would lead to very few injuries at the workplace being compensable. The hearing officer rejected the self-insured's theory that the claimant's injury was due to either merely walking or to an idiopathic fall. We do not find the great weight of the evidence contrary to that determination.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **STATE OFFICE OF RISK MANAGEMENT (a self-insured governmental entity)** and the name and address of its registered agent for service of process is

For service in person the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
300 W. 15TH STREET
WILLIAM P. CLEMENTS, JR. STATE OFFICE BUILDING, 6TH FLOOR
AUSTIN, TEXAS 78701.**

For service by mail the address is:

**RON JOSSELET, EXECUTIVE DIRECTOR
STATE OFFICE OF RISK MANAGEMENT
P.O. BOX 13777
AUSTIN, TEXAS 78711-3777.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Chris Cowan
Appeals Judge